

1 **UNITED STATES DISTRICT COURT**2 **DISTRICT OF NEVADA**

3 THOMAS L. WILLIAMS,

Case No.: 3:23-cv-00401-MMD-CSD

4 Plaintiff

Order

5 v.

6 AMERICAN BEST MOTEL, et al.,

7 Defendants

8 Plaintiff is an inmate in the custody of the Washoe County Detention Facility, and has
9 filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983 and application to proceed *in*
10 *forma pauperis* (IFP). (ECF Nos. 1, 1-1.)

11 The Local Rules of Practice for the District of Nevada provide: “Any person who is
12 unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma*
13 *pauperis* (IFP). The application must be made on the form provided by the court and must
14 include a financial affidavit disclosing the applicant’s income, assets, and liabilities.” LSR 1-1.
15 When a prisoner seeks to proceed without prepaying the filing fee, in addition to filing the
16 affidavit, the prisoner is required to submit a certified copy of the trust fund account statement
17 (or institutional equivalent) for the six-month period immediately preceding the filing of the
18 complaint. The statement must be obtained from the appropriate official at the prison or
19 detention facility where the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

20 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full
21 amount of the filing fee. The court is required to assess, and when funds exist, collect an initial
22 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the
23 prisoner’s account or (B) the average monthly balance in the prisoner’s account for the six-

1 month period immediately preceding the filing of the complaint. Thereafter, whenever the
2 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
3 preceding month's income credited to the prisoners account until the filing fees are paid. The
4 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
5 (2).

6 The regular filing fee is \$402, consisting of the \$350 filing fee and a \$52 administrative
7 fee. If an inmate does not qualify for IFP status, he must pay the full \$402 filing fee. If the
8 inmate qualifies for IFP status, the \$52 administrative fee is waived, and the inmate will only pay
9 the \$350 filing fee over time.

10 Plaintiff's IFP application does not contain a financial certificate properly signed by both
11 Plaintiff and an official from the jail or a copy of his jail trust fund account statement for the
12 previous six month period. Therefore, the court will deny his IFP application (ECF No. 1)
13 without prejudice.

14 CONCLUSION

15 Plaintiff's incomplete IFP application (ECF No. 1) is **DENIED WITHOUT**
16 **PREJUDICE.**

17 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
18 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP
19 application or pay the full \$402 filing fee. The application must be accompanied by all of the
20 required documents, including:

21 (a) the completed **application to proceed IFP for an inmate** on the court's
22 approved form (i.e., pages 1-3 with the inmate's two signatures on page 3);
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1 (b) a **financial certificate** properly signed by both the inmate and a prison or jail
2 official (i.e., page 4 of the court's approved form); and

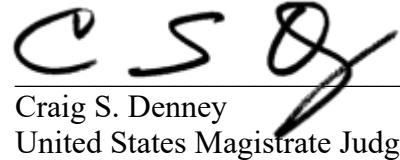
3 (c) a copy of the inmate's jail **trust fund account statement for the previous six**
4 **month period.**

5 Once Plaintiff has filed his completed IFP application and financial certificate or paid the
6 filing fee, the court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C.
7 § 1915A, or both. Both require dismissal of a complaint, or any portion thereof, that is frivolous
8 or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief
9 against a defendant who is immune from such relief. If the complaint is dismissed on screening,
10 there will be no refund of the filing fee, and an inmate proceeding IFP is still required to pay the
11 \$350 filing fee over time.

12 If Plaintiff fails to timely file a completed IFP application and financial certificate or pay
13 the filing fee, the court will recommend dismissal of this action without prejudice.

14 **IT IS SO ORDERED.**

15 Dated: September 14, 2023


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17 Craig S. Denney
18 United States Magistrate Judge

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